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Attorneys for Defendant Richard Beston

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JEFFREY MORSE, as executor of the Estate
of Donald L. Pratt – FB Estate of Donald L.
Pratt,

Plaintiff,

vs.

TEN X HOLDINGS, LLC, an Illinois limited
liability company; RICHARD F. BESTON,
an individual; BRIAN PEBLEY, an
individual; JOHN BRANCH, an individual;
DOES I through X; and ROE
CORPORATIONS I through X,

Defendants.

Case No. 17-cv-00073-JAD-(CWH)

**STIPULATION AND ORDER TO STAY
DISCOVERY PENDING A
DETERMINATION ON DEFENDANTS'
MOTIONS TO DISMISS OR TRANSFER**

Pursuant to Local Rules LR II 26-1 and LR II 26-4, Plaintiff Jeffrey Morse (“Plaintiff”), Defendant Ten X Holdings, LLC (“TXH”), Defendant Richard Beston (“Beston”) and Defendant John Branch (“Branch” and together with TXH and Beston, “Defendants”) submit this stipulation to stay discovery pending decisions on the Defendants’ pending motions to transfer or dismiss:

THE PENDING MOTIONS TO DISMISS OR, IN THE ALTERNATIVE, TO TRANSFER TO ILLINOIS

1. Plaintiff filed the Complaint on November 28, 2016 in the Eighth Judicial District

1 Court, Clark County, Nevada, Case No. A-16-747268-C. (ECF 1-1).

2 2. Beston was the first-appearing defendant, and removed this case on January 8, 2017.
3 (ECF 1).

4 3. On February 1, 2017, Beston filed a Motion to Dismiss or Alternatively Transfer
5 Venue (“Beston’s Motion to Dismiss”). (ECF 6 & 7). In Beston’s Motion to Dismiss he argues,
6 *inter alia*, that this case should be transferred to Illinois pursuant to forum selection clauses that are
7 contained in the underlying documents between the parties. (*Id.*). Plaintiff filed an Opposition to
8 Beston’s Motion to Dismiss on February 15, 2017 (ECF 10) and Beston filed his Reply on February
9 23, 2017 (ECF 13).

10 4. On February 27, 2017, Branch filed a Motion to Dismiss or Alternatively Transfer
11 Venue (“Branch’s Motion to Dismiss”) which also argues, *inter alia*, that this case should be
12 transferred to Illinois pursuant to forum selection clauses that are contained in the underlying
13 documents between the parties. (ECF 19). Plaintiff filed an Opposition to Branch’s Motion to
14 Dismiss on March 13, 2017 (ECF 24).

15 5. On March 1, 2017, TXH filed a Motion to Transfer Venue or, Alternatively, to
16 Dismiss (“Ten X’s Motion to Dismiss”) which also argues, *inter alia*, that this case should be
17 transferred to Illinois pursuant to forum selection clauses that are contained in the underlying
18 documents between the parties. (ECF 17 & 18). Plaintiff filed an Opposition to TXH’s Motion to
19 Dismiss on March 15, 2017 (ECF 25).

20 **THE PENDING MOTION TO STAY DISCOVERY**

21 6. On February 16, 2017, Beston filed a Motion to Stay Discovery Pending Resolution
22 of Beston’s Motion to Dismiss (“Beston’s Motion to Stay Discovery”). (ECF 11). Plaintiff has not
23 opposed Beston’s Motion to Stay Discovery.

24 7. Absent this Stipulation, TXH and Branch would have filed joinders to Beston’s
25 Motion to Stay Discovery and/or filed their own separate motions to stay discovery pending a
26 decision on their respective motions to dismiss or transfer this action.

27 8. On March 16, 2017, the parties conducted a Rule 26(f) conference and agreed that
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discovery in this action should be stayed until the Court has made rulings on Beston's Motion to Dismiss, Branch's Motion to Dismiss and Ten X's Motion to Dismiss (collectively "Defendants' Motions to Dismiss or Transfer").

STIPULATION AND ORDER

Based on the foregoing, the parties hereby stipulate and agree as follows:

Discovery in this action shall be stayed pending decisions on Defendants' Motions to Dismiss or Transfer on the grounds that (1) a stay of discovery will conserve both judicial resources and the resources of the parties and (2) in the event this case is transferred to Illinois, discovery should be conducted as set forth by an Illinois court.

The current deadline to submit the Stipulated Discovery Plan and Scheduling Order shall be vacated. In the event this case is transferred to Illinois, discovery will resume as provided by the Illinois court and its local rules. Alternatively, in the event this case is not dismissed or transferred, the parties shall conduct another Rule 26(f) conference and then submit a proposed Joint Discovery Plan within thirty days of the Court's decision on Defendants' Motions to Dismiss or Transfer.

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Beston's pending Motion to Stay Discovery is hereby taken off calendar, as it is now moot because the requested relief is provided by this Stipulation and Order.

DATED this 23rd day of March, 2017.

MARQUIS AURBACH COFFING

By: /s/ Jonathan Lee
Terry Coffing, Nevada Bar No. 4949
Jonathan Lee, Nevada Bar No. 13524

*Attorneys for Plaintiff Jeffrey Morse, as
executor of the Estate of Donald L. Pratt – FB
Estate of Donald L. Pratt*

DATED this 23rd day of March, 2017.

HOWARD & HOWARD ATTORNEYS PLLC

By: /s/ Robert Hernquist
Robert Hernquist, Nevada Bar No. 10616
Jay Young, Nevada Bar No. 5562

Attorneys for Defendant Richard Beston

DATED this 23rd day of March, 2017.

MULLINER LAW GROUP CHTD

By: /s/ Timothy Mulliner
Timothy Mulliner, Nevada Bar No. 10692

Attorneys for Defendant Ten X Holdings, LLC

DATED this 23rd day of March, 2017.

By: /s/ John Branch
John Branch

Defendant In Properia Persona

IT IS ORDERED that the parties' stipulation (ECF No. 27) to stay discovery is GRANTED.

IT IS FURTHER ORDERED that if the defendants' motions to dismiss or to transfer are denied, the parties must meet and confer and file a stipulated discovery plan within 21 days of the order denying those motions.

IT IS FURTHER ORDERED that Defendant Richard Beston's motion to stay discovery (ECF No. 11) is DENIED as moot.


UNITED STATES MAGISTRATE JUDGE

DATED: March 30, 2017